

## Bureau of Land Management, Interior

## § 3715.4-3

the Endangered Species Act, and/or other applicable statutes, if applicable.

### **§ 3715.3-4 How will BLM notify me of the outcome of its review process?**

At the conclusion of the review, BLM will make a written determination of concurrence or non-concurrence, and will send it to you. For operations conducted under a plan of operations, BLM will include this written determination in the decision that approves, modifies, or rejects the plan.

### **§ 3715.3-5 What will BLM's notification include?**

(a) BLM will include in each determination of concurrence a statement requiring you to continue to comply with §§ 3715.2, 3715.2-1 and 3715.5.

(b) BLM will specify in each determination of non-concurrence how the proposed occupancy fails to meet the conditions of § 3715.2, § 3715.2-1 or § 3715.5, and will provide you an opportunity to modify the proposed occupancy or appeal the determination under § 3715.9.

### **§ 3715.3-6 May I begin occupancy if I have not received concurrence from BLM?**

If you have not received concurrence from BLM, you must not begin occupancy even though you have submitted, or plan to submit, an amended occupancy proposal or an appeal.

### **§ 3715.4 What if I have an existing use or occupancy?**

(a) By August 18, 1997, all existing uses and occupancies must meet the applicable requirements of this subpart. If not, BLM will either issue you a notice of noncompliance or order any existing use or occupancy failing to meet the requirements of this subpart to suspend or cease under § 3715.7-1. BLM will also order you to reclaim the land under 43 CFR part 3800, subpart 3802 or 3809 to BLM's satisfaction within a specified, reasonable time, unless otherwise expressly authorized.

(b) If you are occupying the public lands under the mining laws on August 15, 1996, you may continue your occupancy for one year after that date, without being subject to the procedures this subpart imposes, if:

(1) You notify BLM by October 15, 1996 of the existence of the occupancy using a format specified by BLM; and

(2) BLM has no pending trespass action against you concerning your occupancy.

(c) The one-year grace period provided in paragraph (b) of this section will not apply if at any time BLM determines that your use or occupancy is not reasonably incident and the continued presence of the use or occupancy is a threat to health, safety or the environment. In this situation, BLM will order an immediate temporary suspension of activities under § 3715.7-1(a).

(d) If you have no existing occupancies, but are engaged in uses of the public lands under the mining law, you are subject to the standards in § 3715.5. BLM will determine if your existing uses comply with those standards during normal inspection visits to the area and during BLM review of notices and plans of operations filed under 43 CFR part 3800.

### **§ 3715.4-1 What happens after I give BLM written notification of my existing occupancy?**

(a) BLM will visit your site during the normal course of inspection to obtain the information described in § 3715.3-2. After the visit, BLM will make a determination of concurrence or non-concurrence.

(b) You must provide the information described in § 3715.3-2 to BLM. You may provide it either in writing or verbally during a site visit by BLM field staff.

### **§ 3715.4-2 What if I do not notify BLM of my existing occupancy?**

If you do not provide the written notice required in § 3715.4, you will be subject to the enforcement actions of § 3715.7-1, the civil remedies of § 3715.7-2, and the criminal penalties of § 3715.8.

### **§ 3715.4-3 What if BLM does not concur in my existing use or occupancy?**

If BLM determines that all or any part of your existing use or occupancy is not reasonably incident:

(a) BLM may order a suspension or cessation of all or part of the use or occupancy under § 3715.7-1;